



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAR 01 2002

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Abraham Roth, Treasurer
Dear 2000, Inc.
c/o Roth & Company, LLP
5612 18th Avenue
Brooklyn, New York 11204

RE: MUR 5180
Dear 2000, Inc.

Dear Mr. Roth:

On March 12, 2001, the Federal Election Commission notified Dear 2000, Inc. (the "Committee"), and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended, (the "Act"). A copy of the complaint was forwarded to you and the Committee at that time.

Upon further review of the allegations contained in the complaint and your response, the Commission, on February 20, 2002, found that there is reason to believe that the Committee and you, as treasurer, violated 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the Office of the General Counsel, along with answers to the enclosed subpoena and order, within 30 days of receipt of this letter. All answers to questions must be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this order and subpoena. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

Abraham Roth

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If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the General Counsel's Office will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The General Counsel's office may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the General Counsel's Office ordinarily will not give extensions beyond 20 days.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 2 U.S.C. § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Danita C. Lee or Delbert K. Rigsby, the attorneys assigned to this matter, at (202) 694-1650 or 1-800-424-9530.

Sincerely,



David M. Mason

Chairman

Enclosure

Factual and Legal Analysis

Subpoena and Order

Procedures

Designation of Counsel Form

2025-04-04 15:55:00

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

MUR: 5180

RESPONDENT: Dear 2000, Inc., and Abraham Roth, as Treasurer

I. GENERATION OF MATTER

This matter arose from a complaint filed with the Federal Election Commission ("Commission") by Ron Friedman, Chairman of Friends of Weiner, ("Complainant"). The complaint alleges that Dear 2000, Inc., ("Committee") failed to disclose campaign expenditures and thus, violated 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A).

II. FACTUAL AND LEGAL ANALYSIS

A. Law

The Federal Election Campaign Act of 1971, as amended, ("Act") defines a "political committee" to include the principal campaign committee designated by and authorized by a candidate pursuant to 2 U.S.C. § 432(e)(1). 2 U.S.C. § 431(5). Every political committee shall have a treasurer. 2 U.S.C. § 432(a). No expenditure shall be made for or on behalf of a political committee without the authorization of its treasurer or an agent authorized orally or in writing by the treasurer. 2 U.S.C. § 432(a); *see* 11 C.F.R. § 102.7(c). The Act requires the treasurer of a political committee to keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement including a receipt, invoice, or cancelled check for each disbursement in excess of \$200. 2 U.S.C. § 432(c)(5). The Act requires the treasurer of a political committee to file reports of the total expenditures made to meet candidate or committee operating expenses and to itemize an expenditure made to meet a candidate or committee operating by setting forth the name, address, date, amount and purpose

24-04-400-5509

when the expenditure aggregates or has a value in excess of \$200. 2 U.S.C. §§ 434(b)(4)(A); 434(b)(5)(A).

B. Analysis

The Complainant alleges that on at least six occasions, the Committee placed full-page advertisements in the *Jewish Press* that carried the disclosure, "Paid for by Dear 2000, Inc."¹ The advertisements submitted with the complaint show publication dates of September 1, 2000, September 8, 2000 (two ads), October 27, 2000 and November 3, 2000. The Complainant asserts that the Committee failed to report campaign expenditures associated with these advertisements and requests that the Commission investigate the matter. In response to the complaint, the Committee's Treasurer states "the placement of the advertisements were unknown to me until I learned of them from the complaint and were unauthorized. Thus, the costs thereof did not appear in our expenditure disclosure form."

The Committee filed a Statement of Organization on December 21, 1999, designating Dear 2000, Inc. as the principal campaign committee of Noach Dear. The Statement of Organization lists Abraham Roth as Treasurer and Heshy Katz as Assistant Treasurer. The *Jewish Press* advertisements at issue were published after Mr. Roth was designated as treasurer, and contain the statement "Paid for by Dear 2000, Inc., Abe Roth, Treasurer."² The reports of receipts and disbursements filed by the Committee with the Commission covering January 1, 2000 through June 30, 2001, do not reveal payments to the *Jewish Press*.

The Committee asserts that it did not know about the placement of the advertisements and that the advertisements were unauthorized. However, in light of the publication of the

¹ The Complainant submitted photocopies of five purported advertisements along with a *Jewish Press* rate card showing advertising rates and terms. According to the rate card, full page advertisements cost \$6,600.

² Two of the advertisements submitted with the complaint do not contain this or similar statements.

advertisements and the disclaimer naming the Committee and Mr. Roth, additional inquiry is merited. The Treasurer's ability to designate agents authorized to make expenditures on behalf of the Committee suggests that perhaps an agent of the Committee placed the advertisements. For this reason, without additional evidence to support its denial, it appears that the Committee may have incurred the expense and failed to comply with the Act's disclosure requirements.³ Therefore, the Office of General Counsel recommends that the Commission find reason to believe that Dear 2000, Inc., and Abraham Roth, as Treasurer, violated 2 U.S.C. §§ 434(b)(4)(A) and 434(b)(5)(A) by failing to report all campaign expenditures.

³ Abraham Roth did not indicate that he protested to the *Jewish Press* regarding the placement of the purportedly unauthorized advertisements.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Dear 2000, Inc.

MUR 5180

**SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS**

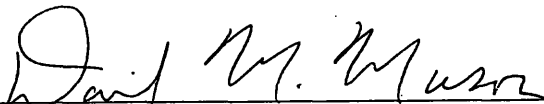
To: Abraham Roth, Treasurer
Dear 2000, Inc.
c/o Roth & Company, LLP
Brooklyn, New York 11204

Pursuant to 2 U.S.C. § 437d(a)(1) and (3) in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit to written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Attached to this subpoena are instructions and definitions that you must follow in responding to this Subpoena and Order.

Answers must be submitted under oath and answers and documents responsive to this subpoena must be forwarded to the Office of General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, within 30 days of your receipt of this Order. Legible copies which, where applicable, show both sides of the documents may be substituted for the originals.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 28th day of February, 2002.

For the Commission,


David M. Mason
Chairman
Federal Election Commission

ATTEST:


Mary W. Dove
Secretary to the Commission

Attachment

Interrogatories and Document Request

ATTACHMENT TO SUBPOENA AND ORDER

This Subpoena to Produce Documents and Order to Submit Written Answers has been issued by the Federal Election Commission under the authority of 2 U.S.C. § 437d(a)(1) and (3). Return this original with an original affidavit signed by the appropriate official attesting to the truth of the answers and that all responsive documents have been provided. The affidavit must be sworn to and notarized.

INSTRUCTIONS

In answering these interrogatories and requests for production of documents, furnish all documents and other information specified below, however obtained, including hearsay, that are in your possession, custody or control, or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the discovery requests in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege or other objection with respect to any documents, communications, or other items about which information is requested by the following interrogatories and requests for production of documents, describe each item in sufficient detail to provide justification for the claim or other objection. Each claim of privilege must specify in detail all grounds on which it rests. No part of a discovery request shall be left unanswered merely because an objection is interposed to another part of the request.

This order for written answers and subpoena for the production of documents is continuing in nature and you are required to file supplementary responses or amendments if you obtain further or different information or documents during the pendency of this matter. Include in any supplemental response the date upon which such further or different information came to your possession and attention.

DEFINITIONS

For the purpose of this subpoena and order, including the instructions thereto, the terms listed below are defined as follows:

“Committee” shall mean Dear 2000, Inc.

“Person” shall be deemed to include both singular and plural, and shall mean an individual, partnership, committee, association, corporation, including any subsidiary or other related business venture, labor organization, or any other type of organization, entity or group of persons as defined in 2 U.S.C. § 431(11).

“Document” shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term “document” includes data or information compiled or maintained in electronic or digital form, such as computer files, tables, spreadsheets or databases. The term “document” also includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, check ledgers, money orders or other commercial paper, invoices, receipts, wire transfers, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, electronic records, and electronic mail messages. Each draft or non-identical paper or electronic copy is a separate document within the meaning of this term.

“Identify” with respect to a person shall mean state the full name, the most recent business and residence addresses and telephone numbers, and the present occupation or position of such person. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

“And” as well as “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these discovery requests all responses that otherwise might be construed to be out of their scope.

DOCUMENT REQUEST

Produce the following documents:

1. Any and all documents related to advertisements by or on behalf of Dear 2000, Inc. published in the *Jewish Press* between January 1, 2000 and December 31, 2000.
2. Any and all documents designating an agent(s) authorized to make expenditures on behalf of the Committee between January 1, 2000 and December 31, 2000.

INTERROGATORIES

1. Identify persons involved in arranging for and purchasing print advertisements in connection with the Dear 2000 general election campaign. For each person identified, state his/her title and responsibilities.
2. Who was responsible for coordinating with the *Jewish Press* between January 1, 2000 and December 31, 2000 for advertisements published for or on behalf of Dear 2000, Inc.?
3. Who placed advertisements published in the *Jewish Press* between January 1, 2000 and December 31, 2000, for or on behalf of Dear 2000, Inc.?
4. Who placed advertisements published in the *Jewish Press* between January 1, 2000 and December 31, 2000, containing the statement "Paid for by Dear 2000, Inc., Abe Roth, Treasurer?"
5. Did Abraham Roth designate, in writing, an agent(s) authorized to make expenditures for or on behalf of Dear 2000, Inc.?
6. If the answer to question 5 is yes, state the identity of each authorized agent.
7. Did Abraham Roth orally designate an agent(s) authorized to make expenditures for or on behalf of Dear 2000, Inc.?
8. If the answer to question 7 is yes, state the identity of each authorized agent.